

IN THE MATTER OF THE CLAIM OF

LUIS EDUARDO DeJUAN

Claim No. CU-3294

Decision No. CU 2028

Under the International Claims Settlement
Act of 1949, as amended

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$13,500.00, was presented by LUIS EDUARDO DeJUAN and is based upon an asserted loss sustained in connection with the ownership of bonds issued by the Cuban Government and bonds issued by an individual Cuban as mortgagor. Claimant has been a national of the United States since his naturalization on December 22, 1961.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964), 22 U.S.C. §§1643-1643k (1964), as amended, 79 Stat. 988 (1965)], the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 502(3) of the Act provides:

The term 'property' means any property, right, or interest including any leasehold interest,

- 2 -

and debts owed by the Government of Cuba or by enterprises which have been nationalized, expropriated, intervened, or taken by the Government of Cuba and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

Section 504 of the Act provides, as to ownership of claims, that

(a) A claim shall not be considered under section 503(a) of this title unless the property on which the claim was based was owned wholly or partially, directly or indirectly by a national of the United States on the date of the loss and if considered shall be considered only to the extent the claim has been held by one or more nationals of the United States continuously thereafter until the date of filing with the Commission.

A portion of the claim is based on Cuban Government bonds known as "Veterans, Courts and Public Works Bonds, 4%, due 1983". Evidence available to the Commission establishes that the Cuban Government defaulted in payment on this issue on May 1, 1961. Accordingly, the Commission finds that the date of loss with respect to these obligations of the Republic of Cuba was May 1, 1961.

In addition, claimant asserts the ownership of nine bonds in the face amount of \$500.00 each, issued by Ciro Camblor Luis in 1953 as a first mortgage on Luis' home. The record contains a copy of a Power of Attorney executed by claimant on July 20, 1959, which describes the mortgage bonds in detail and recites that claimant is the owner of the subject bonds. The Power of Attorney authorized claimant's wife, who was a resident in Cuba at the time of execution, to collect and remit to claimant all proceeds from both the Cuban Government bonds and the Luis mortgage bonds. Consequently, it is apparent that claimant owned both the Luis mortgage bonds and the Cuban Government bonds prior to December 22, 1961, the date upon which claimant acquired his United States nationality.

On October 14, 1960, the Government of Cuba published in its Official Gazette, Special Edition, its Urban Reform Law. Under this law the renting of urban properties, and all other transactions or

CU-3294

contracts involving transfer of the total or partial use of urban properties was outlawed (Article 2). The law covered residential, commercial, industrial and business office properties (Article 15). The law further provided that if a tenant did not occupy the property, or had subleased or transferred its use to another, the property could be sold to the occupant; and further, that an occupant, whether a tenant or subtenant, or not, could purchase the property in the manner outlined (Article 9). Article 21 of the law provided that present owners of urban buildings sold under the law should receive the assigned price; however, under Article 25 ownership of so-called tenement houses would be transferred to the State without compensation to the erstwhile owners. Moreover, Article 30 provided that if urban buildings transferred under the law were mortgaged, execution of the contract of sale should have the effect of canceling the mortgage. Article 31 of the law cancelled all mortgages on owner-occupied urban residential property. Following Chapter VI of the law appears a section entitled "Temporary Provisions" and the third paragraph thereof provides that citizens of foreign countries who do not have the status of legal residents shall be excluded from the rights and benefits conferred by this law.

The Commission therefore concludes that the date of loss with regard to the Luis mortgage bonds was October 14, 1960, the date of the publication of the Urban Reform Law. (See Claim of Henry Lewis Slade, Claim No. CU-0183.)

Inasmuch as the two dates of loss herein, October 14, 1960 and May 1, 1961 occurred prior to claimant's naturalization, and since claimant was the owner of the bonds on the dates of loss, it is clear that the property upon which the claim is based was not continuously owned by a national of the United States from the dates of loss to the date of filing as required by Section 504 of the Act.

Accordingly, the Commission is constrained to deny this claim,
and it is hereby, denied.

Dated at Washington, D. C.,
and entered as the Proposed
Decision of the Commission

26 JUN 1970

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

Sidney Freidberg

Sidney Freidberg, Commissioner

Notice: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g) as amended, 32 Fed. Reg. 412-13 (1967).)

CU-3294